

Petitioner sought and was granted additional time to file objections to the Report and Recommendation. In the objections, petitioner argues, among other things, that his procedural default should be excused because it was caused by the ineffective assistance of and abandonment by post-conviction counsel. The Eighth Circuit has held, however, that any error by post-conviction

counsel cannot be “cause” to excuse procedural default because there is no constitutional entitlement to post-conviction counsel. Malone v. Vasquez, 138 F.3d 711, 719 (8th Cir. 1998) (citing Coleman v. Thompson, 501 U.S. 722, 731-32 (1991)). Petitioner has therefore not suggested a basis upon which his procedural default should be excused, and grounds one through three are procedurally barred.

The Court has carefully reviewed petitioner’s objections and the entire record of this matter. Following de novo review, the Court concurs in the recommendation of the Magistrate Judge.


Accordingly,

**IT IS HEREBY ORDERED** that the Report and Recommendation of United States Magistrate Judge is **sustained, adopted and incorporated** herein. [Doc. 23]

**IT IS FURTHER ORDERED** that Marchellor Hackney’s Petition for Writ of Habeas Corpus pursuant to Title 28 U.S.C. § 2254 is **DENIED**. [Doc. 1]

**IT IS FURTHER ORDERED** that this matter is **DISMISSED**, with no further action to take place herein.

An appropriate judgment will accompany this order.

  
**CHARLES A. SHAW**  
**UNITED STATES DISTRICT JUDGE**

Dated this 15th day of November, 2010.